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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/706,410	11/12/2003	Jerry Joe Wolfe JR.	TRIPLE.000010	6794
42640 DILLON & YU	7590 08/11/200 JDELL LLP	EXAMINER		
8911 NORTH (	CAPITAL OF TEXAS	SMITH, KIMBERLY S		
SUITE 2110 AUSTIN, TX 7	8759		ART UNIT	PAPER NUMBER
,			3644	
			MAIL DATE	DELIVERY MODE
			08/11/2008	PAPER

# Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

## Office Action Summary    The MAILING DATE of this communication appears on the cover sheet with the correspondence address			Applicat	ion No.	Applicant(s)				
Remonty S. Smith   3644   Section	Office Action Summary		10/706,4	110	WOLFE ET AL.				
- The MAILING DATE of this communication appears on the cover sheet with the correspondence address - Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.  Fashination from rany be available under the provided of 57 CFR 1-1369, is no event, investin, rins a reply to be intelligent of the provided priod for pro			Examine	r	Art Unit				
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS. WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.  - transcriber of time rity to available under the proteiners of 37 CFR 1.35(a). Time event, however, may a rely be timely filled.  - if No period to reply is specified above, the missimum abutishoy parked will apply and will expire x(g) (ADMTHS from the mailing table of this communication, even if timely filled.  - if No period to reply is applied above, the missimum abutishoy parked will apply and will expire x(g) (ADMTHS from the mailing table of this communication, even if timely filled. may refere a surple years term adjustment. See 37 CFR1.704(b).  Status  1) □ Responsive to communication(s) filled on 23 May 2008.  2a) □ This action is FINAL.  2b) □ This action is FINAL.  2b) □ This action is replaced by the protein of real powers except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) □ Claim(s) 13.15-17.19.20.27.30.31.33-38 and 40-43 is/are pending in the application.  4a) Of the above claim(s)is/are withdrawn from consideration.  5□ Claim(s)is/are allowed.  5□ Claim(s)is/are objected to.  5□ Claim(s)is/are objected to.  5□ Claim(s)is/are objected to.  5□ Claim(s)is/are objected to.  7□ □ Claim(s)is/are objected to.  8□ Claim(s)is/are objected to.  9□ □ The specification is objected to by the Examiner.  10□ □ The drawing(s) filled on is/are: a) □ accepted or b) □ objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) to held in abeypance. See 37 CFR 1.85(a).  Replacement drawing shee(s) including the correction is required if the drawing(s) to objected to. See 37 CFR 1.12(d).  11□ □ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.  Priority under 35 U.S.C. § 119  12□ □ Acknowledgment is made of a claim for fore			Kimberly	S. Smith	3644				
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Art Unit: 3644

## **DETAILED ACTION**

## Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 05/23/08 has been entered.

## Response to Arguments

2. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

## Information Disclosure Statement

3. The information disclosure statement filed 05/23/08 fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of each patent listed that is not in the English language. It has been placed in the application file, but the information referred to therein has not been considered.

## Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 3644

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

- 5. Claims 13, 16, 17, 20, 27, 30, 31, 34, 36-38 and 40-43 are rejected under 35 U.S.C. 102(b) as being anticipated by Wang, US Patent 6,073,581.
- 6. Wang discloses a treat ball comprising a spheroidal outside (Figure 1), an interior compartment (Figure 2) with a first aperture (33, 43) on the outer extent of a space offset from the center location within the treat ball in which a removable dome-shaped outer surface cap (26) is removeably retained and a second aperture (14).
- 7. Regarding claims 41 and 42, Wang discloses a dimension of the space spaced apart from the aperture (i.e. the area bounded by 34, 44 and 37, 47) being parallel to the plane in which the aperture is located is greater than the maximum dimension of the aperture (34, 44).
- 8. Regarding claims 40, 20 and 17, Wang discloses a wall comprised of two flaps (37, 47) separating the aperture and the interior compartment having an opening (40, 51) for moving treats between the interior compartment and the aperture, wherein the wall includes a funnel section (i.e. the opening functions as a funnel as it constricts the area through which the treats may pass).
- 9. Regarding claim 30, Wang discloses a lip (34, 44) at a perimeter of the aperture and the cap being removably retained within the aperture by overlaying a portion of the outer (circumferential) surface of the cap.

Claim Rejections - 35 USC § 103

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10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the

manner in which the invention was made.

11. Claims 15 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wang

as applied to Claim 13 and further in view of McEvoy, IE 82913.

12. Wang discloses the invention with the exception of a sinuous raised feature on the outside

surface as taught by McEvoy (16). It would have been obvious to one having ordinary skill in

the art to use the sinuous raised feature as taught by McEvoy with the apparatus of Wang so as to

provide a more varied and interesting rolling pattern for the ball.

13. Claims 13, 19, 31 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Jager, US 2004/0244719 in view of Rucker, US Patent 6,634,318.

14. Jager discloses a treat ball comprising a generally spheroid outside surface (Figure 6)

having an interior compartment and an aperture (66). However, Jager does not disclose the use

of a removable edible cap. Rucker teaches the use of an edible cap (400) for insertion into an

aperture in a treat dispensing apparatus so as to allow for longer enjoyment of the apparatus. It

would have been obvious to one having ordinary skill in the art at the time of the invention to use

the cap as taught by Rucker with the apparatus of Jager so as to prolong the time before the

animal is able to access the treats thereby increasing the enjoyability of the apparatus.

Conclusion

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15. The prior art made of record and not relied upon is considered pertinent to applicant's

disclosure. Note documents listed on attached Notice of References Cited.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Kimberly S. Smith whose telephone number is (571)272-6909.

The examiner can normally be reached on Monday-Thursday 10:00-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Michael Mansen can be reached on 571-272-6608. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kimberly S Smith/

Primary Examiner, Art Unit 3644

KSS